

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ZURICH AMERICAN INSURANCE CO.,

Plaintiff,

-v-

BDP INTERNATIONAL N.V., et al.,

Defendants.

23 Civ. 5976 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:


On July 12, 2023, plaintiff Zurich American Insurance Co. (“Zurich American”) filed the complaint in this case against three defendants: BDP International N.V., BDP International, Inc., and Iberia Airlines. Dkt. 1. Zurich American thereafter filed three affidavits of service, one for each defendant, noting that BDP International N.V. and BDP International, Inc. had been served on August 9, 2023, Dkts. 12, 13, making their responsive pleading due August 30, 2023, whereas Iberia Airlines had been served on August 8, 2023, Dkt. 14, making its answer or other responsive pleading due on August 29, 2023. On September 18, 2023, this Court issued an order to show cause why the action should not be dismissed for failure to prosecute after inaction from all parties. Dkt. 15. Zurich American thereafter obtained a clerk’s certificate of default against Iberia Airlines, Dkts. 17, 18, while it stipulated to and this Court granted an extension of time for the two BDP International defendants to answer or otherwise response to the complaint, until October 9, 2023, Dkt. 23. On September 27, 2023, Iberia Airlines filed an answer to the complaint. Dkt. 26.

Under Federal Rule of Civil Procedure 55, a “court may set aside an entry of default for good cause[.]” Fed. R. Civ. P. 55(c). Here, Iberia Airlines filed its answer out of time, without

first seeking an extension from this Court, and after Zurich Airlines had already sought and obtained an entry of default against it. Iberia Airlines' answer does not explain its delay in responding to the complaint or otherwise appearing in this action after service of process. The Court therefore requires additional information before deciding whether or not to set aside the entry of default under Federal Rule of Civil Procedure 55.

As such, the Court directs Iberia Airlines to file, no later than **October 11, 2023**, a letter-motion detailing the grounds on which the Court should set aside the clerk's entry of default. Zurich American's response, if any, is due **October 18, 2023**.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: October 5, 2023
New York, New York